

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:11-HC-2014-D

UNITED STATES OF AMERICA, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 JEFFREY BARNER, )  
 Register Number 15250-052, )  
 )  
 Respondent. )

**ORDER**

On January 25, 2011, the government filed a petition for respondent Jeffrey Barner's commitment pursuant to 18 U.S.C. § 4248 [D.E. 1]. On August 30, 2011, the government filed a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1), on the ground "that it cannot meet its burden of proving by clear and convincing evidence that Respondent should be committed" [D.E. 9]. Barner's term of imprisonment expires on September 16, 2011, and the government indicates that it will release him from custody on that date. *Id.* at 2.

A plaintiff may dismiss an action voluntarily, without an order of the court, by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. *See* Fed. R. Civ. P. 41(a)(1)(A)(i). Respondent has not filed an answer or a motion for summary judgment. Thus, the court will allow the voluntary dismissal.

In light of the government's voluntary dismissal [D.E. 9], this action is DISMISSED WITHOUT PREJUDICE. The Clerk of Court is DIRECTED to close the case.

SO ORDERED. This 9 day of September 2011.

  
JAMES C. DEVER III  
United States District Judge